

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

INVENTOR(S) : James M. Ziobro  
TITLE : INTELLIGENT COLOR TO TEXTURE  
CONVERTER  
APPLICATION NO. : 09/725,384  
FILED : November 29, 2000  
CONFIRMATION NO. : 6573  
EXAMINER : Harrison, Chante E.  
ART UNIT : 2628  
LAST OFFICE ACTION : July 24, 2007  
ATTORNEY DOCKET NO. : A0125Q-US-NP  
XERZ 2 00404

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**SUMMARY OF TELEPHONE INTERVIEWS**

Dear Sir:

On or about March 25, 2008, after reviewing the Advisory Action mailed on March 18, 2008, Mr. Thomas Tillander, one of the representatives of the Applicant, left a voice mail message for the Examiner, Ms. Chante Harrison, pointing out that the reason asserted by the Office Action for refusing entry of Applicant's Amendment I (After Final) was incorrect and asking for reconsideration of that refusal. The voice mail message further submitted that the amendment to **claim 21**, which appeared to be the subject of the note portion of the Advisory Action (and which made aspects "plural") was supported, for example, by language in allowable **claim 4** (which recites *inter alia*: -- classifying **peaks** within the histogram that have similar luminance as **conflicting colors**; applying **at least one** distinct special modulation to, and only to, **at least one**

respective single color inversion of the **at least one** of the **conflicting colors** in a single color inversion of an image--. In this regard, the voice mail submitted that the assertion that Applicant "failed to previously claim a spatially modulating a plurality of image portions associated with a plurality of selected conflicting colors" was incorrect and that Applicant's Amendment I should be entered.

Although the answering phone message promised a reply within 1 business day, no reply was received. Accordingly, on or about **March 28, 2008**, Mr. Tillander placed a second call to the Examiner. During the resulting conversation, the Examiner indicated receipt of the earlier phone message, but indicated that the Examiner would need until at least the following Monday (March 31, 2008) to consider the comments.

On or about **April 4, 2008**, the Examiner telephoned Mr. Tillander and indicated the amendment would not be entered because of the replacement of the word "one" with the phrase --selected ones--. The Examiner asserted that even though the disclosure of applying modulation to identified conflicting colors was included in the specification, there was no support for the word --selected-- or the phrase --selected ones--. Accordingly, the Amendment would not be entered.

In response, Mr. Tillander pointed out that **claim 21** (the claim at issue) was patterned after original **claim 1** and that original **claim 1** recited --**selectively** adding texture to **portions** of the single color inversion of the image that are associated with conflicting **colors**--. The Examiner indicated that **claim 1** had not been considered.

Mr. Tillander suggested that the Examiner reconsider entry of Amendment I in light of the recitation in **claim 1** in order to avoid the filing of yet a third Notice of Appeal and third Pre-Appeal Brief Request for Review. The Examiner indicated that the Examiner's schedule did not permit such reconsideration.

No other claims were discussed. No agreement was reached.

Respectfully submitted,

FAY SHARPE LLP



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April 8, 2008  
Date

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

I hereby certify that this paper and/or fee is being transmitted to the USPTO by electronic transmission via EFS-Web on the date indicated below.

Mary Ann Temesvari  
Mary Ann Temesvari

Date: April 8, 2008

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